

**International Brotherhood of Teamsters, Warehousemen, Garage Employees and Helpers Union, Local No. 839 and Bechtel Power Corporation.**  
Case 15-CB-4841

24 August 1984

## DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS  
ZIMMERMAN AND HUNTER

Upon a charge filed by the Employer 24 June 1983 the General Counsel of the National Labor Relations Board issued a complaint on 5 August 1983. The complaint alleges that the Respondent violated Section 8(b)(1)(B) of the Act by processing internal union charges against Supervisor Ray Hutchinson and then expelling him from membership because of his exercise of supervisory responsibilities.

On 22 November 1983 the Employer, the Respondent, and the General Counsel filed a "Motion to Transfer Case to the Board and Stipulation of Facts in Lieu of Hearing." The parties waived a hearing and the issuance of a decision by an administrative law judge and submitted the case directly to the Board for findings of fact, conclusions of law, and decision. The parties also agreed that their formal stipulation and the exhibits attached thereto would constitute the entire record before the Board.

On 13 March 1984 the Board issued an order granting the parties' motion, approving the stipulation, and transferring the proceeding to the Board. Thereafter each of the parties filed a brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record and the briefs, the Board makes the following

### FINDINGS OF FACT

#### I. JURISDICTION

The Employer, Bechtel Power Corporation, is a Delaware corporation engaged in the construction of a nuclear power plant at the Hanford Nuclear Reservation in the State of Washington. In the course and conduct of its business operations the Employer annually purchases and receives goods and materials valued in excess of \$50,000 directly from sources outside the State of Washington, or from suppliers within the State which in turn obtained such goods and materials directly from sources outside the State. Accordingly, we find that Bechtel Power Corporation is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act. The Respondent is a labor

organization within the meaning of Section 2(5) of the Act.

#### II. ALLEGED UNFAIR LABOR PRACTICES

##### A. *The Stipulated Facts*

The Employer recognizes the Respondent as the exclusive representative of its truckdrivers employed at the Hanford Nuclear Reservation. During the spring of 1983 Ray Hutchinson worked as a foreman for the Employer at the Reservation and served as one of its representatives for the purposes of collective bargaining or the adjustment of grievances within the purview of Section 8(b)(1)(B) of the Act. Hutchinson was also a member of the Respondent.

On 25 March 1983 driver James Moore filed internal union charges against Hutchinson alleging that he had violated several articles of the Respondent's constitution and bylaws. By letter dated 28 March Respondent Secretary-Treasurer William Sarver notified Hutchinson of the charges and that a trial would be held. On 18 April and 9 June 1983 the Respondent conducted a trial concerning the charges. At the trial Moore alleged that while serving as a foreman Hutchinson had assigned away work which belonged to the Respondent's members and that Hutchinson had reported him for failing to wear a safety vest which resulted in his discharge. By letter dated 14 June the Respondent's president, Bill Robinson, notified Hutchinson of the Respondent's decision to expel him and of his right to appeal that decision. The Respondent admits that it expelled Hutchinson based on charges involving and arising out of his exercise of supervisory responsibilities.

Under the terms of the collective-bargaining agreement between the Respondent and the Employer, Teamsters members were required to take orders from only a Teamsters foreperson. Following Hutchinson's expulsion Robinson advised the Employer that the Respondent's members did not have to take orders from anyone that was not a Teamsters general foreman and if anyone was fired because they refused to take an order from Hutchinson he would grieve it. Subsequently Robinson informed the Respondent's members that they must obey Hutchinson's orders pending his internal union appeal.

##### B. *Contentions of the Parties*

The General Counsel and the Employer contend that the Respondent coerced the Employer in the selection of its representative for purposes of collective bargaining and the adjustment of grievances in violation of Section 8(b)(1)(B) of the Act by

trying and expelling Supervisor Hutchinson based on his performance of supervisory duties. The Respondent asserts that it exerted no coercion on the Employer through Hutchinson since its actions did not cause Hutchinson a loss of benefits or privileges which would restrain his effectiveness as the Employer's representative. The Respondent also asserts that to find an 8(b)(1)(B) violation would improperly interfere with its internal union affairs relating to membership.

### C. Discussion

Section 8(b)(1)(B) of the Act provides that it shall be an unfair labor practice for a labor organization "to restrain or coerce an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances." The Respondent admittedly expelled Foreman Hutchinson based on his exercise of supervisory responsibilities and then advised the Employer that pursuant to the parties' collective-bargaining agreement the Respondent's members were required to take orders from only a Teamsters foreperson.<sup>1</sup> The Respondent further informed the Employer that, if any one of the Respondent's members was fired because he refused to take an order from Hutchinson, Robinson would grieve the discharge.

Robinson's statement that the Respondent's members need not obey Hutchinson's orders deprived the Employer of Hutchinson's services as its supervisor as effectively as a refusal by the Respondent or its members to work with Hutchinson and thus coerced the Employer in the selection of its 8(b)(1)(B) representative.<sup>2</sup> Accordingly, we conclude that, by expelling Hutchinson based on his performance of supervisory duties and by subsequently advising the Employer that its members need not follow Hutchinson's orders, the Respondent violated Section 8(b)(1)(B).<sup>3</sup>

### CONCLUSIONS OF LAW

1. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

<sup>1</sup> The contract provision which set forth this requirement was not included in the record. The General Counsel does not contend that as written this provision was violative of Sec. 8(b)(1)(B).

<sup>2</sup> The Respondent does not contend that its notification to members that they must obey Hutchinson's orders pending his internal union appeal serves as a defense to the complaint allegations.

<sup>3</sup> In view of the rationale expressed above, we find it unnecessary to pass on the General Counsel's and the Employer's contention that the Respondent's trial and expulsion of Hutchinson alone coerced the Employer in violation of Sec. 8(b)(1)(B) under the theory that such discipline would affect how Hutchinson would choose to perform his supervisory duties.

2. The Respondent is a labor organization within the meaning of Section 2(5) of the Act.

3. By restraining and coercing the Employer in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(B) of the Act.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

### REMEDY

Having found that the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(B) of the Act, we shall order that it cease and desist therefrom and take certain affirmative action designed to effectuate the purposes of the Act.

### ORDER

The National Labor Relations Board orders that the Respondent, International Brotherhood of Teamsters, Warehousemen, Garage Employees and Helpers Union, Local No. 839, Pasco, Washington, its officers, agents, and representatives, shall

1. Cease and desist from

(a) In any like or related manner restraining or coercing Bechtel Power Corporation in the selection of representatives chosen by it for the purposes of collective bargaining or the adjustment of grievances.

(b) Expelling, refusing to membership, or otherwise disciplining Foreman Ray Hutchinson because of his performance of work as the Employer's selected representative for the purposes of collective bargaining or the adjustment of grievances.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind the action taken in expelling Ray Hutchinson from membership in the Respondent, expunge from its records all the references to the discipline, and notify him in writing that this has been done and that the discipline will not be used as a basis for future action against him.

(b) Make Ray Hutchinson whole for any losses he may have suffered by reason of the Respondent's action in expelling him from membership in the Respondent, with interest.<sup>4</sup>

(c) Post at its offices and union halls copies of the attached notice marked "Appendix."<sup>5</sup> Copies

<sup>4</sup> *Florida Steel Corp.*, 231 NLRB 651 (1977). See generally *Isis Plumbing Co.*, 138 NLRB 716 (1962).

<sup>5</sup> If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall be "Posted by Order of the National Labor Relations Board."

*Continued*

of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

\_\_\_\_\_  
tional Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

NOTICE TO MEMBERS  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT in any like or related manner restrain or coerce Bechtel Power Corporation in the selection of representatives chosen by it for the purposes of collective bargaining or the adjustment of grievances.

WE WILL NOT expel, refuse membership to, or otherwise discipline Ray Hutchinson because of his performance of work as the Employer's selected representative for the purposes of collective bargaining or the adjustment of grievances.

WE WILL rescind the expulsion of Ray Hutchinson, expunge from our records all references to such discipline, and notify him in writing that this has been done and that the discipline will not be used as a basis for future action against him.

WE WILL make Ray Hutchinson whole for any losses he may have suffered by reason of our expulsion of him from membership, with interest.

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, WAREHOUSEMEN, GA-  
RAGE EMPLOYEES AND HELPERS  
UNION, LOCAL NO. 839